C/E. 100/—

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH
AT BILASPUR
W.P. No.3569 /2005

PETITIONERS : 1. Ku. Joyti Agrawal D/o Late Vijay Kuamr Agrawal, Aged about 36 years, R/o. Village- Godhi Post – Godhi Th. Dhamdha P.S.- Ahirwara District- Durg (C.G.).

VERSUS

RESPONDENTS : 1. State of Chhattisgarh
Through : Secretary,
Department of Education, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. State of Madhya Pradesh
Through: Secretary, School Education Department of Education, Bhopal (M.P.).
3. Union of India, Delhi
4. Collector Durg.
5. District Education Officer, Durg.
6. Block Development Education officer Tahsil Dhamda, Dist. : Durg (C.G.)
7. Principal, Govt. H.S. School Godhi Tahsil Dhamda Dist. : Durg (C.G.)

29/06/05
R. No.
Presented by
dated 27/6/05

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS CERTIORARI AND OTHER APPROPRIATET WRITS/ORDERS/DIRECTIOS.

XI-HC-78

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P. No. 3569/05 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

27.6.2006

Heard Smt. Sudha Agarwal, Advocate for the petitioner.

Shri Sumesh Bajaj, Government Advocate for respondent Nos.1 & 4 to 7/State.

Shri S.K. Beriwal, Central Government Standing Counsel for respondent No.3-Union of India.

The main grievance raised in this writ petition by the petitioner is that after the death of her father namely Late Vijay Kumar, who died in harness on 22.10.1999 while working as Head Master in Government Primary School, Gondhi, Tehsil Dhamdha, District Durg, therefore, the petitioner, who is post-graduate, applied for compassionate appointment before respondent Nos.6 & 7, but her case is not being considered by them for compassionate appointment.

Return has been filed on behalf of respondent Nos.1 and 4 to 7/ State in which it has been admitted that the petitioner's father died on 22.10.1999 before the formation of the State of Chhattisgarh in the year 2000. After creation of new State of Chhattisgarh the respondent authorities, as a matter of policy, framed rules for granting of compassionate appointment in services of respondents-State. It has further been mentioned that the petition is liable to be dismissed on the ground of delay and latches, as the petition is belated filed in the

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आदेश पत्रक (पूर्वानुबद्ध)

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year 2006. It was further mentioned that only dependents of an employee, dying in harness leaving his family in pecuniary deficit and without any means of livelihood, can be appointed on compassionate ground. The object of the compassionate is to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency, whereas, in the present case, the petitioner's brother namely Praveen Kumar Agarwal is already appointed as Clerk in the Department of Education vide order dated 3.9.1994 (Annexure R-4).

A rejoinder has been filed on behalf of the petitioner in which it has been mentioned that the brother of petitioner was residing separately with her mother and therefore, on this ground her application cannot be rejected.

I have heard learned counsel for the parties.

As far as the first objection raised by learned counsel for the respondent-State that father of the petitioner died in the year 1999 before the formation of the State of C.G. is concerned, the same has been withdrawn by learned counsel for the State on the ground that now the State Government has issued an order that heirs of government employee, who died on or after 1.11.1997 shall be considered for compassionate appointment. It is an admitted position

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that the father of the petitioner died in harness on 22.10.1999 while working as Head Master in Government Primary School, Gondhi.

As far as the question of delay is concerned, after the death of her father, the petitioner immediately applied for the compassionate appointment on 22.12.1999 and thereafter the matter is pending consideration before the respondent authorities i.e. District Education Officer and same is not yet being decided. The matter was filed in the year 2005, therefore, in the circumstances, it cannot be held that the petition is belated.

Learned counsel for the petitioner submitted that therefore, the respondents be directed to consider the case of the petitioner compassionate appointment in accordance with the policy.

Now the question that the brother of the petitioner is already employed as Clerk in the Education Department, therefore, she is not entitled for the compassionate appointment is concerned, in the rejoinder it has been mentioned that he was residing separately with his mother and not with his father along with petitioner, therefore, same cannot be taken to be a ground for refusing compassionate appointment to her.

The question regarding the fact that brother of the petitioner was residing separately and the petitioner is not dependent on him can be decided only after conducting necessary enquiry by the respondent

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

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authorities in this regard. Apart from this appointment, as per Annexure P-9 an agricultural land of the brother of the petitioner in the Village Godhi is there, the respondent authorities can conduct enquiry as to whether that land independently belongs to the petitioner's brother or it was his ancestral land.

In the circumstances, the respondents are directed to consider the case of the petitioner for compassionate appointment in accordance with the government policy and observations made herein above and pass appropriate orders in accordance with the law within a period of three months from today.

With the aforesaid directions, the petition stands disposed of.

Consequently, I.A. No.1948/06 also stands disposed of.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

Roshan